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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,993	01/13/2004	Diane Wigo	WGO-100US	1466
31344	7590	08/29/2005	EXAMINER	
			MILLER, BENA B	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

S8

Office Action Summary	Application No.	Applicant(s)
	10/755,993	WIGO, DIANE
	Examiner	Art Unit
	Bena Miller	3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6,8,9 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-6,8,9 and 11-15 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 - 3: Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ . | 6) <input type="checkbox"/> Other: ____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is finally rejected under 35 U.S.C. 102(b) as being anticipated by Murphy (US Patent 5,707,269).

The device of Murphy reads on the structural limitations of the claim including a convertible carrying case wherein the bottom, at least four sides and top sections lie flat (It should be noted that after the case of Murphy is opened [in other words, 12, 4, 20, 16, 18 and 26 are detached], each section is capable of being able to lie flat). Further, the Examiner takes the position that the toy replicas of Murphy are training stations.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 9 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Daiber in view of Murphy or Lish (US Patent 6,554,685).

Daiber teaches most of the elements of the claimed invention. However, Daiber fails to teach compact disc player, computer processor to play recorded music, pliable plastic training stations and the toy replicas removable and reattachable to the carrying case. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a compact disc player and a computer processor to play music since it was known in that that music is used with and in toys for creating excitement. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the training stations of pliable plastic since it was known in the art that toys are made of pliable plastic to prevent injury to a child(ren) when playing.

Murphy and Lish teach a container having toy replicas attached thereto by an attachment means (fig. 3 and fig. 8, respectively). It would have been obvious to one having ordinary skill in the art at the time to have the toy replica's of Diaber removable and reattachable as suggested by Murphy or Lish for the purpose of securing the toy replica's to the case.

Claims 5 and 6 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy in view of Daiber.

Murphy teaches most of the elements of the claimed invention, except for a sit-up bench and elliptical trainer. Daiber teaches a carrying case having toy replicas contained therein. The toy replicas are placed on the carrying case once the carrying case is the flat position (fig. 15 and 16). The Examiner takes the position that the toy replicas of Daiber include a sit-up bench and elliptical trainer as shown in the figures 15

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and 16. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a sit-up bench and elliptical trainer toy replica as taught by Daiber with the facility of Murphy for the purpose of creating different sceneries for the facility.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daiber in view of Murphy or Lish (US Patent 6,554,685) as applied to claim 1 above, and further in view of Chase.

Daiber and Murphy or Lish teaches most of the elements of the claimed invention except for a removable drawer and a handle attached to the case. Chase teaches in the figures a collapsible storage play structure having a removable drawer (14) and handle (84). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a removable drawer and handle as taught by Chase to the case of Daiber and Murphy or Lish for the purpose of storing the dolls and carrying the case easily.

Claim 11 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy.

Murphy teaches most of the elements of the claimed invention, except for the stations magnetically attached to the case. At the time the invention was made, it would have been an obvious matter of design choice to a persons of ordinary skill in the art to have the stations of Murphy magnetically attached to the case because Applicant has not disclosed that the magnetically attached stations provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art,

furthermore, would have expected hook and loop material and applicant's invention, to perform equally well with either the hook and loop material or the claimed magnetically attached stations because both would perform the same function of attaching the stations to the case.

Therefore, it would have been *prima facie* obvious to modify Murphy to obtain the invention specified in claim 11 because such modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Murphy.

Claims 12-15 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Daiber in view of Chase.

Daiber teaches most of the elements of the claimed invention except for a removable drawer and a handle attached to the case. Chase teaches in the figures a collapsible storage play structure having a removable drawer (14) and handle (84). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a removable drawer and handle as taught by Chase to the case of Daiber for the purpose of storing the dolls and carrying the case easily.

Response to Arguments

Applicant's arguments filed 12/16/05 have been fully considered but they are not persuasive. In reference to Applicant's remarks to claims 1-6, 8, 9 and 11, the Applicant's attention is directed above rejection.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Chase has a foldable carrying case wherein draws attached thereto. Therefore, the combination of a carrying case of Daiber that is foldable and a carrying case, with drawers, of Chase would have been obvious and one of ordinary skill in the art, at the time the invention was made, would combine the prior art above to obtain the claimed facility.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

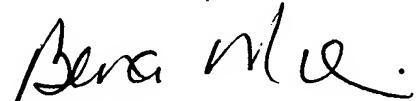
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bena Miller
Primary Examiner
Art Unit 3725

bbm
August 23, 2005